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Financing of the International Residual Mechanism for Criminal Tribunals

Construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch

Report of the Secretary-General

Summary

In its resolution 67/244 B, the General Assembly authorized the activities related to all phases of the construction of the new premises of the Arusha branch of the International Residual Mechanism for Criminal Tribunals, and requested the Secretary-General to submit a progress report no later than the first part of its resumed sixty-eighth session, updating Member States on the advancement of the project.

The present report provides an update on the progress made on the project since the previous report of the Secretary-General (A/67/696). It also supplements the update provided by the Assistant Secretary-General, Registrar, of the Mechanism to the Fifth Committee of the General Assembly on 10 October 2013.

Considerable progress has been made with regard to a number of key milestones. In April 2013, the Project Manager joined the project team and since that time has provided day-to-day management of the project on the ground in Arusha.

Arrangements to formalize the grant of land from the United Republic of Tanzania to the United Nations are at an advanced stage. On 26 November 2013, the agreement between the United Republic of Tanzania and the United Nations concerning the headquarters of the International Residual Mechanism for Criminal Tribunals, Arusha branch, was signed. A supplementary agreement governing the grant of land and the construction of the new facilities is currently being finalized.

The solicitation process for the architectural and engineering design consultant, although slightly delayed, is nearly complete. The design, which is a key milestone in the schedule of the project, will serve as the basis for creating the tender documentation that will be used to procure the construction work. The sourcing process for the construction company is scheduled to commence during the first half of 2014.

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I. Introduction

1. The International Residual Mechanism for Criminal Tribunals commenced its mandate on 1 July 2012, with the opening of its Arusha branch, in accordance with Security Council resolution 1966 (2010). The Arusha branch, which has been fully functional since its first day, continues certain essential functions inherited from the International Criminal Tribunal for Rwanda. The Hague branch of the Mechanism, which commenced on 1 July 2013, assumed parallel functions derived from the International Tribunal for the Former Yugoslavia.

2. The Mechanism's mandate comprises: (a) continuous activities, including witness protection, supervision of enforcement of sentences, archive management, tracking of fugitives and assistance to national prosecution authorities; and (b) ad hoc activities, consisting primarily of the conduct of trials, appeals and other judicial activity falling under the jurisdiction of the Mechanism.

3. Strategic measures taken by the Mechanism have led to the timely commencement of its operations at both branches, without any gaps in the provision of critical services resulting from the transition. Crucially, those measures also ensured that the Mechanism has been able to carry out its functions as a small and efficient institution, as envisaged in its founding resolution.

4. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda in the Arusha International Conference Centre compound in Arusha, United Republic of Tanzania. While the Conference Centre has provided adequate support to the activities of the Tribunal, it is unsuitable for the specific programmatic and functional requirements of the much smaller institution of the Mechanism. Because of certain structural features, it does not, and cannot, effectively meet minimum internationally recognized archival standards, or address security risks exacerbated by the progressive reduction of the United Nations presence in the compound.

5. The project for the construction of new facilities for the Arusha branch of the Mechanism commenced in January 2012, following the adoption of resolution 66/240, by which the General Assembly decided to appropriate an initial amount of $3 million to cover expenses related to the conceptual design phase of the project. During the second part of the resumed sixty-sixth session of the Assembly, the Secretary-General submitted his first report on the project (A/66/754), providing detailed information on a comprehensive project management plan, including programmatic and functional requirements, a conceptual design and key milestones of the project from design to occupancy.

6. Pursuant to General Assembly resolution 66/240 B, a second report of the Secretary-General was submitted during the first part of the resumed sixty-seventh session of the Assembly (A/67/696), providing detailed information on the key decision points regarding the conceptual design, project plan and overall cost estimate of the planned new facility, as well as efforts to reduce the duration of the project.

7. Having considered the second report of the Secretary-General on the project, the General Assembly, in its resolution 67/244 B, authorized the activities related to all phases of the construction of the new premises of the Arusha branch of the Mechanism. The Assembly also requested the Secretary-General to submit a

progress report by the first part of its resumed sixty-eighth session, updating Member States on the project. It specifically requested information on efforts made to shorten the duration of the construction project and allocate resources in the most effective and efficient manner, as well as on the outcomes of bilateral exchanges with other judicial institutions regarding possibilities for sharing facilities.

8. The present report provides an update on the progress made on the project since the issuance of the previous report of the Secretary-General. It also supplements the update provided by the Assistant Secretary-General, Registrar, of the Mechanism, to the Fifth Committee of the General Assembly on 10 October 2013.

II. Progress made on the project during the reporting period

A. Project site and cooperation with the United Republic of Tanzania

9. The Government of the United Republic of Tanzania offered to provide land for the Arusha branch premises and any required amenities and utilities at the identified site, at no cost to the United Nations. The Mechanism and the host Government have worked closely to finalize the administrative arrangements necessary to formalize the grant of land. As a result of that collaboration, a certified survey map for the allocated land was produced in November 2013.

10. Upon the Mechanism's request, the host Government assigned technical focal points for the project. The focal points, at both the district and regional levels, have greatly assisted the Mechanism in facilitating, coordinating and providing support on local building and procedural matters.

11. The agreement between the United Nations and the United Republic of Tanzania concerning the headquarters of the International Residual Mechanism for Criminal Tribunals, Arusha branch, was signed on 26 November 2013 in Dar es Salaam. At the time of preparing the present report, discussions on an agreement for the grant of land between the United Nations and the Government of the United Republic of Tanzania were at an advanced stage. The agreement for the grant of land will supplement the agreement concerning the headquarters of the Arusha branch of the Mechanism.

12. The Secretary-General expresses his appreciation to the United Republic of Tanzania for its efforts and assistance in all aspects of the project.

B. Project management

Project team

13. In April 2013, the project team took complete form when the locally based, full-time Project Manager was brought on board. The inclusion of a dedicated project manager draws on lessons learned from recent capital projects within the Secretariat, including the capital master plan in New York and the new office facilities in Addis Ababa and Nairobi. The role of the Project Manager, who reports to the Head of the Registry (Arusha branch), is to ensure integrated project management, coordination and timeliness of action.

14. Since her arrival in Arusha, the Project Manager has submitted monthly progress reports, through the Head of the Registry (Arusha branch), to the Assistant Secretary-General, Registrar, of the Mechanism, to ensure that he is fully briefed on all key achievements and any potential issues or challenges that have been identified during the reporting period. The reports highlight the key activities undertaken with stakeholders and provide detailed information regarding the Project Manager's work in the various areas of her responsibility.

Coordination and cooperation with stakeholders

15. Since the submission of the previous report of the Secretary-General on the project (A/67/696), the project has benefitted from the commitment shown by senior management throughout the Secretariat. The Mechanism continues to work in close cooperation with the Office of Central Support Services of the Department of Management, which has provided guidance and support in all aspects of project implementation. As the project has progressed, the Mechanism has also sought and received the assistance of other key stakeholders in the Secretariat. The Department of Safety and Security and the Office of Information and Communications Technology have provided high-level expert advice on detailed functional requirements for the facility in the areas of security and information technology and communications. In addition, the Office of Legal Affairs has provided legal advice to the project team and has drafted key legal documents related to the project.

16. The Mechanism and the Office of Central Support Services liaise on a regular basis, by videoconferences, conference calls and correspondence. Other stakeholders, including the departments and offices mentioned above, are brought into the discussions, as needed.

17. The International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have continued to offer technical assistance to the project, in particular in the areas of security, telecommunications, finance, human resources and procurement. The Mechanism has collaborated extensively with the Tribunals in developing design requirements. The Tribunals have provided advice based on their experience on the ground, particularly in relation to the areas of security, information technology and communications and conference services. These requirements were then transmitted to various entities in the Secretariat, including the Department of Safety and Security and the Office of Information and Communications Technology, which further provided high-level advice to ensure that the overall strategic objectives of the Organization in those areas are incorporated into the design.

Risk management

18. A preliminary risk register, which provides a schedule of risks and their anticipated outcomes, has been created in order to manage project risks. It identifies potential risks related to technical and quality issues, schedule and budget, where possible. Risks will be quantified to assess whether the contingency and amounts budgeted will be adequate. The register will be monitored and updated regularly by the Project Manager and shared with key project stakeholders. It will enable the project team to make risk-based decisions, which will, in turn, help to ensure that the project successfully meets its objectives and outputs.

C. Procurement

19. In order to move the project forward while a dedicated procurement officer is being recruited for the project, the Mechanism, in consultation with the Office of Central Support Services, sought the immediate support of the Procurement Office of the International Tribunal for the Former Yugoslavia to provide services in relation to undertaking the solicitation process for the architectural and engineering design services. As the tendering and procurement processes for the construction firm will require specialized expertise in construction-related procurement that the Tribunal does not possess, a dedicated procurement officer is being recruited. The procurement officer will be based in Entebbe, Uganda, at the Regional Service Centre, so as to benefit from the existing United Nations procurement infrastructure located there, while still remaining in close proximity to the site in the United Republic of Tanzania.

20. The solicitation exercise for the architectural and engineering design consultant was carried out in accordance with United Nations Financial Regulations and Rules. To ensure open competition and geographical diversity among potential qualified vendors, the Mechanism published an expression of interest in both print and electronic media at the local, regional and international levels. A bidders' conference was held in Arusha in July 2013, to allow potential qualified vendors to physically inspect the site so that location-specific costs could be incorporated into their bids. As part of the Mechanism's commitment to include local knowledge and capacity in the implementation of the project, a key requirement in the selection process was that the firm should have a local business presence in Africa.

21. Based on the recommendation of the Office of Central Support Services and pending the finalization of the land agreement between the United Nations and the United Republic of Tanzania, the Mechanism is currently negotiating a contract with the consultant for the first stage of the consultancy involving pre-design preparation services. The Mechanism anticipates being able to enter into contract with the selected firm in the first quarter of 2014.

D. Project design

22. In his previous report, the Secretary-General set out the conceptual design of the project, which took into account the specific site conditions, as well as the overall programmatic objectives of the Mechanism. The design revolves around an open courtyard with a single, prominent tree — representing justice in many parts of Africa — to serve as the focal point of the courtyard and the archives, court and office buildings. Because of the limited and contained scope of the project, it was developed in-house using existing resources.

23. Taking into account lessons learned from other capital projects in the region, which recommended that design objectives and requirements be identified during the design phase, the Mechanism decided to clearly identify and define design objectives and detailed functional requirements for the new facility, in particular with respect to security and information technology and communications. Once a contract has been signed with the architectural and engineering design consultant, such information will be provided to the consultant so that it can be taken into account during the design phase.

24. During 2014, the consultant will develop a detailed design for the facility based on the conceptual design set out in the previous report of the Secretary-General. The work of the consultant is divided into stages. The first stage, which will commence when the contract between the United Nations and the consultant is signed, involves pre-design preparation services. During this stage, the consultant will produce a design brief, which will be reviewed and appraised in conjunction with the conceptual design documents for confirmation of key project requirements and constraints.

25. During the detailed design stage, the consultant will be required to submit a design proposal for the new facilities that conforms to the authorized budget and approved timeline. The consultant will carry out site investigations and tests in order to complete the technical calculations, and will prepare a preliminary and final cost breakdown and estimate on the basis of the detailed design, which will be subject to approval by the Mechanism. An environmental impact assessment will be carried out to assess the potential hazards and impact of the construction. The consultant will also be responsible for preparing and producing tender documents for construction. The Mechanism anticipates that the sourcing process for the construction firm will begin in the first half of 2014.

E. Outcomes of bilateral exchanges regarding shared facilities

26. Pursuant to General Assembly resolution 67/244 B, the Secretary-General has continued bilateral exchanges with judicial institutions such as the African Court on Human and Peoples' Rights to discuss issues of mutual interest, including exploring the possibility of sharing facilities.

27. Since the adoption of resolution 67/244 B, the Mechanism has met with the Registrar of the African Court on two occasions. During these meetings, both parties expressed interest in the possibility of sharing facilities, but were unable to establish concrete areas of cooperation, as the process of building the permanent structure of the African Court is still in its early phases. The Mechanism remains open to the possibility of sharing common services and/or space wherever it is efficient, economical and secure to do so, and will continue to explore potential areas of cooperation with the African Court as the project to build its permanent structure advances.

III. Project accountability

28. The General Assembly, in its resolution 67/244 B, requested the Secretary-General to entrust the Office of Internal Oversight Services (OIOS) with ensuring effective oversight of the implementation of the project. Pursuant to that request, the Assistant Secretary-General, Registrar, requested OIOS to arrange for a continuous audit of the project, with the project team meeting periodically with the Resident Auditor of the International Criminal Tribunal for Rwanda, in order to ensure that the advice and recommendations of OIOS are systematically considered and incorporated into the execution of the project. The first audit of the project is scheduled for the second quarter of 2014. OIOS has committed to reporting the audit results to the General Assembly through its annual reports.

IV. Project schedule

29. As stated in the previous report of the Secretary-General, in response to the request of Member States to reduce the time needed to complete the construction while guaranteeing effective oversight of the project, the project team, chaired by the Registrar of the Mechanism and composed of representatives of the Mechanism and the Office of Central Support Services, took a number of actions to considerably reduce the project schedule by a total of 15 months — from five years and three months to four years.

30. The project timeline set out in the previous report of the Secretary-General has been carefully reviewed. The Mechanism considers that it is not feasible to further shorten the duration of the project without compromising the quality of the design and construction. In addition to the considerable reduction in the schedule already achieved, the Mechanism is bound to adhere to several strict timelines established by United Nations procurement procedures, in order to ensure that all United Nations Financial Regulations and Rules relating to procurement are adhered to, and the United Nations procurement principles are upheld, when soliciting the necessary services for the project.

31. While the project has experienced a slight delay of approximately two months in entering into a contract with the architectural and engineering design consultant, the Mechanism's proactive approach of identifying the design requirements of the new facilities should help to mitigate the small lag in the schedule. Additional measures taken by the Mechanism include working with the Office of Central Support Services to expedite internal approval and review processes of the architectural and engineering design consultancy services and the construction procurement exercises.

32. The Secretary-General considers that these developments will not have a significant impact on the cost of the project. The Mechanism remains committed to completing the project within the cost estimate provided in the previous report of the Secretary-General and approved by the General Assembly in resolution 67/244 B.

33. A detailed project schedule is contained in the annex to the present report.

V. Project expenditures, funding arrangements and anticipated costs

34. By its resolution 66/240 A, the General Assembly appropriated an initial amount of $3 million for the project. Having considered the budget proposals of the Mechanism for the biennium 2014-2015, which included the resources for the project, the Assembly, by its resolution 68/257, appropriated an additional amount of $5,787,700, bringing the total amount of resources for the project to $8,787,700, corresponding to the total requirements proposed for the project.

35. The table below provides the actual expenditures as at 31 December 2013 and projected further expenditures during 2014 and 2015.

Expenditures for the period 2013-2015

	Projected expenditure (in United States dollars)			
Description	*2013[a]*	*2014*	*2015*	*Total*
Construction cost	–	636 589	5 729 298	6 365 887
Architect and project management costs				
Architect fees[b]	–	381 954	254 635	636 589
Project supervision and management[c]	155 919	267 948	211 933	635 800
Travel[d]	12 396	45 378	41 302	99 086
Subtotal	**168 315**	**695 289**	**507 871**	**1 371 475**
Total project costs (exclusive of contingency)	**168 315**	**1 331 878**	**6 237 169**	**7 737 362**
Contingency[e]	–	152 781	897 590	1 050 371
Overall costs (inclusive of contingency)	**168 315**	**1 484 659**	**7 134 759**	**8 787 733**

[a] Actual expenditure from inception to 31 December 2013.

[b] Reflects the cost of hiring an external architectural consultant firm to produce detailed construction documents, perform construction administration duties and assume the responsibility of architect of record.

[c] Reflects the cost of hiring a project manager for day-to-day management and coordination of the project activities.

[d] Reflects the cost of travel of staff between New York, The Hague and Arusha to provide technical assistance to the project.

[e] Calculated at 15 per cent of the construction costs and architect fees.

36. The Mechanism has initiated discussions with the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia in order to explore the possibility of utilizing useable furniture and equipment, such as generators, courtroom equipment, desks and bookshelves, of the Tribunals in the new facility. This approach is in line with resolution 67/244 B, in which the General Assembly encouraged the Secretary-General to complete the courtroom in a cost-effective manner, and to allocate the resources provided in the most effective and efficient manner.

VI. Conclusion

37. Despite the slight delay that the project has experienced, considerable progress has been made with regard to a number of key milestones. In April 2013, the Project Manager joined the project team and since that time has provided day-to-day management of the project on the ground in Arusha.

38. Arrangements to formalize the grant of land from the United Republic of Tanzania to the United Nations are well under way. On 26 November 2013, the agreement between the United Republic of Tanzania and the United Nations concerning the headquarters of the Mechanism, Arusha branch, was signed. A supplementary agreement governing the grant of land and the construction of the new facilities is currently being finalized.

39. The procurement of the architectural and engineering design consultant is nearly complete. This design, which is a key milestone in the schedule of the project, will serve as the basis for creating the tender documentation that will be used to procure the construction service. The sourcing process for the construction company is scheduled to commence during the first half of 2014.

40. The Mechanism continues to monitor the project closely and to undertake any measures necessary to mitigate potential risks, so as to ensure that the project is completed within the overall timeline and budget approved by the General Assembly.

VII. Action to be taken by the General Assembly

41. **The General Assembly is requested to take note of the present report, which provides an update on the progress made on the project during the reporting period.**

Annex

Projected project schedule

	As set out in document A/66/754		*As set out in document A/67/696*		*Current projection*		
Activity	*Start*	*Complete*	*Start*	*Complete*	*Start*	*Complete*	*Status*
General Assembly approval to proceed with schematic design	–	Early 2012	–	Early 2012	–	Early 2012	Completed
Site selection	Early 2012	Late 2012	Early 2012	Late 2012	Early 2012	Late 2012	Completed
Programming	Early 2012	Mid-2012	Early 2012	Late 2012	Early 2012	Late 2012	Completed
Recruit the project manager	Early 2012	Mid-2012	Mid-2012	Early 2013	Mid-2012	Mid-2013	Completed
Conceptual design	Late 2012	Early 2013	Mid-2012	Late 2012	Mid-2012	Late 2012	Completed
Cost estimate	Early 2013	Mid-2013	Late 2012	Late 2012	Late 2012	Late 2012	Completed
General Assembly approval to proceed with design and construction	–	Mid-2013	–	Early 2013	–	Early 2013	Completed
Recruit architectural consultant	Mid-2012	Late 2012	Early 2013	Mid-2013	Mid-2013	Early 2014	Final stage
Design development and construction documents	Mid-2013	Early 2014	Mid-2013	Early 2014	Mid-2013	Early 2014	In progress
Tender for construction contract	Early 2014	Late 2014	Early 2014	Late 2014	Mid-2014	Late 2014	–
Contract negotiations, award and mobilization	Late 2014	Mid-2015	Late 2014	Late 2014	Late 2014	Late 2014	–
Construction phase and interior fit-out	Mid-2015	Early 2017	Early 2015	Late 2015	Early 2015	Late 2015	–
Occupancy	–	Early/ Mid-2017	–	Late 2015	–	Late 2015	–